

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 16-03**

**Z.C. Case No. 16-03**

**DB Residential Hill East, LLC**

**(Hill East District Design Review @ Square 1112E, Lots 802, 803, and 804)**

**May 12, 2016**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on April 7, 2016, to consider an application filed by DB Residential Hill East, LLC (“Applicant”) for design review of a new development pursuant to Chapter 28 of the Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”) or (“Zoning Regulations”), which applies to new construction in the Hill East District, and includes requests for special exception relief from the requirement of § 2815.6, which regards the location of garage entrances, as well as variance relief from the requirements of §§ 2101.1, 2115.2, 2115.4, 2201.1, 2807.1, 2808.1, and 2815.1-2815.4, which regard maximum height, parking, loading, percentage and grouping of compact spaces, and Inclusionary Zoning. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

**FINDINGS OF FACT**

**The Application, Parties, Hearings, and Post-Hearing Filings**

1. On January 21, 2016, the Applicant, with the consent of the District of Columbia, the owner of the subject property, filed an application for design review of the development proposed for Lots 802, 803, and 804 in Square 1112E (the “Property”) pursuant to Chapter 28 of the Zoning Regulations, which applies to new construction in the Hill East District.
2. The application also includes requests for special exception approval from the parking access requirements of 11 DCMR § 2815.6 and relief from the requirements for height, off-street parking, compact parking spaces, loading, and inclusionary zoning.
3. The Property consists of two parcels – Parcel F-1 and Parcel G-1, totaling approximately 2.6 acres in the Hill East District. The proposed development includes approximately 27,200 square feet of retail and 349 residential units (the “Project”). Of the 349 residential units, 15% will be reserved for households earning up to or at 30% of the area median income (“AMI”) and 15% will be reserved for households earning up to or at 60% of AMI, in accordance with the affordable housing requirements contained in the “National Capital Revitalization Corps and Anacostia Water Corporation Reorganization

Act of 2008” (D.C. Official Code §§ 2-1226.01 et seq. (2008)) (the “AWI Act”). (See D.C. Official Code § 2-1226.02 (2012 Repl.).)

4. A description of the proposed development and the notice of the public hearing in this matter were published in the *D.C. Register* on February 19, 2016. (Exhibit [“Ex.”] 11.) The notice of the public hearing was mailed to all owners of property located within 200 feet of the Property and to Advisory Neighborhood Commission (“ANC”) 7F on February 18, 2016. (Ex. 12.) On February 11, 2016, notice of the public hearing was mailed to ANC 6B, the boundary for which is across the street from the Property. (Ex. 13.)
5. On March 15, 2016, ANC 7F conducted a public meeting to consider the application, for which notice was properly given and a quorum was present, and voted unanimously to support the design review application and zoning relief requested by the Applicant. (Ex. 32.) In its letter of support to the Commission, ANC 7F requested that at least 30% of the units be two- to three-bedroom units that would also be included in the affordable housing portions.
6. The Applicant also presented the application to ANC 6B, which, at its regularly scheduled meeting on March 8, 2016, for which proper notice was properly given and a quorum was present, voted unanimously in support of the application.
7. On March 28, 2016, the District Department of Transportation (“DDOT”) submitted a report finding no objection to the Project subject to the mitigations listed on pages two and three of the report. (Ex. 21.)
8. On March 28, 2016, the Office of Planning (“OP”) submitted a report to the Commission recommending approval of the application and the necessary areas of relief. (Ex. 22.)
9. The parties to the case were the Applicant and ANC 7F.
10. The Commission held a hearing on the application on April 7, 2016. At the hearing, Christopher Donatelli of Donatelli Development, Colline Hernandez of GTM Architects, Sharon Bradley of Bradley Site Design, and Jami Milanovich of Wells + Associates testified on behalf of the Applicant.
11. OP and DDOT testified in support of the application at the public hearing.
12. No persons testified in support of the application at the public hearing. The record includes letters of support from Councilmember Yvette M. Alexander, the Office of the Deputy Mayor for Planning and Economic Development, and Colleen Garibaldi. (Ex. 17, 23, 24.)
13. No persons testified in opposition to the application at the public hearing. The Capitol Hill Restoration Society’s Zoning Committee submitted a letter to the Commission requesting that the Commission’s ruling be postponed to allow additional time to

determine the suitability of the design and materials. The letter expressed opposition to any waiver of the design criteria in § 2813.17. (Ex. 28.)

14. The record was closed at the conclusion of the public hearing, except to receive additional submissions from the Applicant, as requested by the Commission, and responses thereto from ANC 7F.
15. On April 21 2016, the Applicant submitted its post-hearing submission responding to the Commission's comments and included revised architectural sheets. (Ex. 35-35A2.) The Applicant requested permission to submit a consolidated set of the updated architectural drawings at the public meeting on May 12, 2016. The comprehensive set of architectural designs submitted following the hearing contained a revised façade for the C Street elevation located in Parcel G-1. (Ex. 37A1-37A8.)
16. At its public meeting on May 12, 2016, the Commission accepted the consolidated set of the updated architectural drawings and voted to approve the application. As part of its approval, the Commission granted the Applicant the flexibility to choose between the façades presented in its revised drawings (Ex. 30B, Sheet 51) and the drawings submitted after the hearing (Ex. 37A6, Sheet 51; 37A7, Sheet 64) for the C Street elevation in Parcel G-1.

#### **Description of the Site and Surrounding Area**

17. The Property consists of two parcels in the Hill East neighborhood – Parcel F-1 and Parcel G-1. These two parcels total approximately 2.6 acres and are the first parcels in the 67-acre area formerly known as Reservation 13, to be developed implementing the vision and objectives of the Hill East Waterfront Master Plan. The Property is currently used as a surface parking lot for the Department of General Services, the Department of Corrections, and the Department of Health.
18. Parcel F-1 is located in the HE-1 Zone District, and consists of 60,862 square feet. It is bound on the west by 19<sup>th</sup> Street, on the north by Burke Street, and on the south by C Street, all of which are considered secondary streets under the Hill East design guidelines. Parcel G-1 is located in the HE-1 and HE-2 Zone Districts, and consists of 87,614 square feet. It is bound on the west by 19<sup>th</sup> Street, on the north by C Street, on the south by Massachusetts Avenue, and on the east by 20<sup>th</sup> Street. C Street, 20<sup>th</sup> Street, and 19<sup>th</sup> Street are secondary streets and Massachusetts Avenue is a primary street under the Hill East design guidelines.
19. The Property is located within the Anacostia Waterfront Development Zone. Therefore, the Project must comply with the affordable housing requirements contained in the AWI Act. The AWI Act requires that at least 30% of the total housing units developed must be affordable – 15% reserved for households earning up to or at 30% of the AMI and 15% reserved for households earning up to or at 60% of the AMI.

#### **Description of the Project**

20. Parcel F-1 will be redeveloped with a four-story building containing approximately 13,400 square feet of retail space and 91 residential units. Of those units, 14 will be affordable units reserved for households not exceeding 30% AMI and 14 will be affordable units reserved for households not exceeding 60% AMI. The building will have a maximum height of 52 feet, approximately 106,460 square feet of gross floor area, and a density of 1.86 floor area ratio ("FAR"). The western portion of Parcel F-1, fronting on 19<sup>th</sup> Street, will be maintained as an open plaza area that will be maintained by the Applicant.
21. Parcel G-1 will be redeveloped with a four-story building containing approximately 13,800 square feet of retail and 258 residential units. Of those units, 39 will be affordable units reserved for households not exceeding 30% AMI and 39 will be affordable units reserved for households not exceeding 60% AMI. The building will have a maximum height of 53 feet on the portion of the parcel in the HE-1 Zone District and 69 feet on the portion of the parcel in HE-2 Zone District approximately 286,808 square feet of gross floor area, and a density of 3.27 FAR. The western portion of Parcel G-1, fronting on 19<sup>th</sup> Street, will be maintained as an open plaza area that will be maintained by the Applicant.
22. The buildings will achieve LEED-Silver certification.

#### **Hill East Zone District Design Requirements**

23. The application must satisfy the requirements of Chapter 28 of the Zoning Regulations because the new development will be located within the Hill East Zone District. The Commission finds that the project meets the requirements of Chapter 28.
24. The HE Zone District includes the following development requirements:
  - A maximum height of 50 feet and four stories in the HE-1 Zone District and 80 feet and seven stories in the HE-2 Zone District; (11 DCMR § 2801.1.)
  - A maximum density of 3.0 FAR in the HE-1 Zone District and 4.8 FAR in the HE-2 Zone District; (11 DCMR § 2808.1.)
  - A maximum non-residential density of 0.8 FAR in Square F and 1.0 FAR in Square G; (11 DCMR § 2808.2.)
  - A maximum lot occupancy of 80% in the HE-1 Zone District and 75% in the HE-2 Zone District; (11 DCMR § 2808.1.)
  - A minimum rear yard of three inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof, but not less than 12 feet; and (11 DCMR § 2810.6.)

- If provided, a minimum side yard width of eight feet. 11 DCMR § 2810.1.
25. The building on Parcel F-1 complies with all of the foregoing requirements except for the permitted maximum height in the HE-1 Zone District. The building will have of maximum height of 52 feet where a maximum height of 50 feet is permitted. The additional two feet of height is necessary in order to achieve the minimum floor-to-ceiling heights required for the retail use and allows for a strong architectural cornice element at the top of the building.
  26. The building on Parcel G-1, which is split zoned in the HE-1 and HE-2 Zone Districts, complies with all of the foregoing requirements except for the permitted maximum height in the HE-1 Zone District. The building will have a maximum height of 53 feet for the portion of the building located in the HE-1 Zone District where 50 feet is permitted. The additional three feet of height is necessary in order to achieve the minimum floor to ceiling heights required for the retail use and allows for a strong architectural cornice element at the top of the building.

#### **Hill East District Design Requirements**

27. The HE Zone District regulations require review by the Commission of all new buildings, or additions to existing buildings for consistency with the design guidelines set forth at §§ 2812 through 2814 of the Zoning Regulations and with the general purposes of the HE Zone District as stated in § 2800.7 of the Zoning Regulations.

#### **Purpose of Hill East District (11 DCMR § 2800.7)**

28. Pursuant to § 2800.7, the purposes of the Hill East District are to:
  - (a) Connect and integrate Reservation 13 with adjacent neighborhoods and the new waterfront park along the Anacostia River;
  - (b) Utilize the site to meet a diversity of public needs, including health care, education, employment, government services and administration, retail, recreation, and housing;
  - (c) Extend the existing pattern of local streets to and through the site to create simple, well-organized city blocks and appropriately-scaled development;
  - (d) Maintain a human scale of building heights that match existing neighborhood buildings and increase in height as the site slopes downward to the Anacostia waterfront;
  - (e) Connect the Hill East neighborhood and the city at large to the waterfront via tree-lined public streets, recreational trails, and increased access to waterfront parklands;

- (f) Demonstrate environmental stewardship through environmentally-sensitive design, ample open spaces, and a waterfront park that serve as public amenities and benefit the neighborhood and the city;
  - (g) Promote the use of mass transit by introducing new uses near Metro stations, and create an environment where the pedestrian, bicycle, and auto are all welcome, complementary, and unobtrusive, reducing the impact of traffic on adjacent neighborhood streets;
  - (h) Limit the Central Detention Facility and the Correction Treatment Facility to areas south of Massachusetts Avenue; and
  - (i) Create attractive “places” of unique and complementary character including:
    - i. A new, vital neighborhood center around the Metro station at C and 19<sup>th</sup> Streets that serves the unmet neighborhood commercial needs of the community and extends to the waterfront with a new residential district;
    - ii. Massachusetts Avenue as a grand Washington ‘boulevard’ in the tradition of the L’Enfant plan;
    - iii. A district for city-wide uses and services, such as health care, education, and recreation along Independence Avenue; and
    - iv. A grand public waterfront park incorporating monumental places and quiet natural retreats accessed by a meandering park drive set back from the Anacostia River.
29. The Project is consistent with the stated purposes of the Hill East District. It is designed to be contextual to the surrounding neighborhood and the Anacostia Waterfront Park. The amenities for the Project include parks and plazas, neighborhood-scale performance and café spaces, and public art and gathering areas. In connection with the Project, the existing pattern of local streets will be extended. The residential streetscapes are designed to be quiet, tree-lined neighborhoods with subtle separation between public and private spaces and visual details consistent with the larger community context. View sheds and sight lines have been preserved for a sense of context and safety, providing inviting pedestrian routes to the Anacostia Waterfront Park.
30. A park-like environment has been created for all streetscapes, with a high ratio of planting to pavement and 51 shade trees. This will increase canopy coverage and reduce the heat island effect, creating more comfortable environments and reducing building operations costs. The retaining wall along Massachusetts Avenue will be a “green wall” to soften its appearance and create a more inviting streetscape. The plant palette is predominantly native and it has been carefully selected to suit its environment and



irrigation is not necessary. Storm water will be managed using Low Impact Development measures, including streamlined, lushly planted bio-retention areas and vegetated roofs.

31. The Property is located adjacent to the Stadium Armory Metrorail Station. As a result, the Project will introduce new residential and retail uses near the Metrorail Station. At the station exit will be a sequence of dynamic spaces that bring life to the streetscape at scales appropriate to their locations. Closest to the building, the spaces will function as outdoor rooms that relate directly to the commercial uses within: semi-enclosed, more intimate areas for dining and conversation amid lush planting. Closer to the street will be gathering areas: lawns and plazas that evoke the city park character where concerts and arts festivals occur. The pedestrian-focused spaces will continue southward in a plaza that spans the intersection of 19<sup>th</sup> Street and C Street, creating both a venue for larger-scaled events and a traffic-calming device. The plaza will link the streetscape to the south with an iconic focal point - a sculptural water feature that provides a place making element at a key location. Planters in front of the building on Parcel G1 will define areas for smaller scale gatherings, and there will be another focal area at the significant urban node at 19<sup>th</sup> Street and Massachusetts Avenue.
32. A Capital Bikeshare station has been placed in a highly visible location adjacent to the Metrorail exit for maximum convenience to cyclists and Metrorail patrons. Bike lanes are planned for all the streets surrounding the Project. On-street parking is provided along most of the streets, with pull-offs at the main entrances to the buildings on Parcel F-1 and G-1. The bike lanes and parking spaces have been designed according to current DDOT standards.
33. The Project will introduce new retail uses that will serve the needs of the surrounding residential community. A portion of the retail uses will front on Massachusetts Avenue at the corner of 19<sup>th</sup> street. Moving east along Massachusetts Avenue, the building façade incorporates architectural detailing consistent with the look and feel of rowhouse dwellings typically found to the north along Massachusetts Avenue and within the surrounding Capitol Hill neighborhood, generally. This design strategy will help establish a new portion of Massachusetts Avenue as a “grand Washington boulevard”.

#### Ground-Floor Use Where Required and Permitted (11 DCMR § 2811)

34. For the purposes of the HE Zone District, the term "preferred uses" means retail, entertainment, cultural, or commercial uses. (11 DCMR § 2811.) The following locations are required to devote not less than 65% of the ground-floor frontage to preferred uses and main building entrances, or lobbies to office and residential uses, and shall comply with the design requirements of §§ 2812 through 2814:
  - (a) The west face of Square F (19<sup>th</sup> Street frontage);
  - (b) The northwest corner of Square G;

- (c) The southeast corner of Square J at Massachusetts Avenue and Water Street, facing the monumental circle;
  - (d) The northeast corner of Square M at Massachusetts Avenue and Water Street, facing the monumental circle; and
  - (e) All Independence Avenue and Massachusetts Avenue frontages;
35. The Project complies with the requirement for preferred uses on ground-floor frontage. The building on Parcel F-1 devotes 100% of the ground-floor frontage to retail use. The building on Parcel G-1 devotes 65% of the ground-floor frontage to retail use, lobbies, and main building entrances.
36. Pursuant to § 2811.3, the following locations are permitted to have ground-floor preferred uses, provided that the building shall be constructed so that not less than 65% of the ground-floor frontage will be devoted to preferred uses and main building entrances, or lobbies to office and residential uses, and shall comply with the design requirements of §§ 2812 through 2814:
- (a) All frontages on 19<sup>th</sup> Street;
  - (b) All frontages on Burke Street;
  - (c) The C Street frontage of Square H, facing the park in Square E, for a maximum length of 200 feet from Square H's northeast corner at the intersection of C Street and 21<sup>st</sup> Street;
  - (d) The 21<sup>st</sup> Street frontage of Square D;
  - (e) The southeast corner of Square D, which faces the intersection of C Street and Water Street;
  - (f) The northeast corner of Square I, which faces the intersection of C Street and Water Street; and
  - (g) All frontages on Water Street.
37. Both buildings comply with the foregoing requirement. The buildings have frontage on 19<sup>th</sup> Street and the retail uses and main building entrances occupy 100% of the frontage of both buildings on 19<sup>th</sup> Street.

Ground-Floor Preferred Uses Design Standards (11 DCMR § 2812)

38. Pursuant to § 2812.1, wherever preferred uses, as defined in §2811.1, are required or allowed pursuant to §§ 2811.2 and 2811.3, such ground-floor preferred uses shall:



- (a) If located on a corner, wrap around the corner to a minimum depth of 20 feet on the side street;
  - (b) Occupy the ground floor to a minimum depth of 30 feet;
  - (c) Have a minimum clear floor-to-ceiling height of 14 feet, measured from the finished grade, for the area of the ground floor dedicated to preferred uses;
  - (d) The street-facing façades of buildings on primary streets shall devote not less than 75% per individual use or 50% of the length and 50% of the surface area of the street wall at the ground level to windows associated with preferred uses or windows associated with main building entrances; and
  - (e) The street-facing façades of mixed-use or non-residential buildings on secondary streets shall devote not less than 75% per individual use or 30% of the length and 30% of the surface area of the street wall at the ground level to windows associated with preferred uses or windows associated with main building entrances.
39. The building on Parcel F-1 complies with the foregoing requirements. The retail use wraps around the corner of 19<sup>th</sup> Street and C Street to a depth of 57 feet. Additionally, the retail use wraps around the corner of 19<sup>th</sup> Street and Burke Street to a depth of 68 feet, two inches. The retail use occupies the ground floor to a depth between 46 feet and 67 feet, two inches. The retail areas are designed with a clear floor-to-ceiling height of 14 feet measured from the finished grade. The frontage on 19<sup>th</sup> Street devotes 70% of the length and 59% of the surface area of the street wall at the ground level to windows associated with the retail uses or windows associated with main building entrances.
40. The building on Parcel G-1 complies with the foregoing requirements. The retail use wraps around the corner of Massachusetts Avenue and 19<sup>th</sup> Street to a depth of 90 feet. The retail use occupies the ground floor to a depth between 30 feet and 66 feet. The frontage on Massachusetts Avenue devotes 65% of the length and 60% of the surface area of the street wall at ground level to windows associated with retail uses or windows associated with the main building entrance. The frontage on 19<sup>th</sup> Street devotes 67% of the length and 47% of the surface area of the street wall at the ground level to windows associated with the retail uses or windows associated with main building entrances.
41. Pursuant to § 2812.2, the windows required by § 2812.1(d) shall have clear or clear/low emissivity glass allowing transparency to a depth of 20 feet into the preferred ground level space with bottom sills no more than four feet above the adjacent sidewalk grade. Subsection 2812.3 requires that the windows allow views from within the building to the street.
42. The windows on both buildings have a clear/low emissivity glass allowing transparency to a depth of 20 feet into the preferred ground level space, with bottom sills, eight inches

to two feet eight inches above the adjacent sidewalk grade. Both buildings comply with this requirement. All of the windows allow views from within the building to the streets.

Design Requirements All Locations (11 DCMR § 2813)

43. Section 2813 establishes the following design requirements for all buildings and structures located in the HE Zone District:

- Except as provided in § 2814.2, the front of a building or structure shall extend to the property line(s) abutting the street right-of-way for not less than 90% of the property line and to a height of not less than 25 feet; (11 DCMR § 2813.2.)
- Whatever portion of the front of a building or structure that does not extend to the property line(s) pursuant to § 2813.2 must extend to within 25 feet of the front property line and to a height of not less than twenty-five (25) feet; (11 DCMR § 2813.3.)
- Awnings, canopies, bay windows, and balconies may extend forward of the required building line to the extent permitted by any other regulations; (11 DCMR § 2813.4.)
- For every 50 feet of uninterrupted building façade length, the building shall incorporate modulated and articulated building wall planes through the use of projections, recesses, and reveals expressing structural bays; changes in color, graphical patterns, and texture; or changes in building material of the façade; (11 DCMR § 2813.5.)
- The articulation shall have a minimum change of plane of six inches; (11 DCMR § 2813.6.)
- Façade articulation of less than two feet in depth shall qualify to meet the street frontage required building line standards of §§ 2813.2 and 2813.3; (11 DCMR § 2813.7.)
- Any single articulation feature shall not exceed 60% of the building façade width; (11 DCMR § 2813.8.)
- Buildings with ground-floor retail shall incorporate vertical elements to create a series of storefront-type bays with entrances that are no more than 50 feet apart; (11 DCMR § 2813.9.)
- Security grilles shall have no less than 70% transparency; (11 DCMR § 2813.10.)
- Street-facing façades shall not have blank walls (without doors or windows) greater than 10 feet in length; (11 DCMR § 2813.11.)

- Each use within a building shall have an individual public entrance that is clearly defined and directly accessible from the public sidewalk; (11 DCMR § 2813.12.)
- Exterior display of goods and exterior storage between the building line and the front lot line is prohibited. Outdoor seating for restaurants and pedestrian-oriented accessory uses, such as flower, food, or drink stands, or other appropriate vendors are permitted to the extent consistent with other District laws; (11 DCMR § 2813.13.)
- Windows shall cover the following minimum area of street-facing façades above the ground-floor level:

Location	Minimum Percentage	
	Non-Residential	Residential
Primary Street	35%	20%
Secondary Street	40%	20%

(11 DCMR § 2813.14.)

- Buildings and structures should clearly articulate a base, middle, and top, except for row dwellings and flats; (11 DCMR § 2813.15.)
  - High quality, durable materials which enhance the building and convey permanence shall be required; and (11 DCMR § 2813.16.)
  - The use of synthetic stucco, vinyl siding, and/or other low-grade exterior finishes is prohibited. (11 DCMR § 2813.17.)
44. The building on Parcel F-1 complies with the foregoing requirements. It extends to the property line abutting the right of way at 19<sup>th</sup> Street for 90% of the property line and to a height of 52 feet. The majority of the building façade extends to the property line abutting 19<sup>th</sup> Street. In order to provide articulation and interest at the plaza, the façade incorporates two setback areas that extend the full height of the building. These areas are setback one foot, 11 inches from the property line. The façade incorporates brick, cast stone, and metal panels on the façades fronting secondary streets. The wall planes clad in brick are articulated with brick reveals, soldier coursing, and cast stone headers and sills surrounding window openings. To further break up the façade, composite metal panel is introduced at the recessed areas between the brick planes. The façade of the ground-floor retail incorporates a series of brick pilasters between aluminum storefronts at the retail bays. Entrances to retail spaces are located less than 50 feet apart. The primary residential entrance is accessible from C Street.

45. On Parcel F-1, the design of the street-facing façades are organized to articulate a clear base, middle, and top. The base of the building is marked by the use of two rows of cast stone banding above the retail bays. The middle section of the building is articulated through the use of large two-story recessed areas in the brick façade that surround double-height windows. The top of the building incorporates a series of large punched window openings framed by cast stone headers and sills. An articulated stepped cornice element caps off the composition at all brick wall planes. The windows cover 40% of the residential street-facing façades above the ground-floor level at all secondary streets.
46. The building on Parcel G-1 complies with the foregoing requirements. It extends to the property lines abutting the right-of-way at 19<sup>th</sup> Street for 93% of the property line and to a height of 53 feet. The majority of the building façade extends to the property line abutting 19<sup>th</sup> Street. In order to provide interest and articulation at the plaza, the building has been designed as a series of individual façades that stagger along the street. Setbacks at these façade elements are less than two feet. The corner of the building, at 19<sup>th</sup> Street and C Street, is set back from the property line to create a strong architectural element at the building's main entrance. The Massachusetts Avenue façade of the building will incorporate a series of projecting bays that extend four feet beyond the existing building line. These elements will help to break up the façade and add interest and articulation at the pedestrian level along the street. The façade also incorporates brick, cast stone, and composite metal panel on the façades fronting primary and secondary streets. The 19<sup>th</sup> Street façade is designed as a series of individual building faces to break up the length of the façade, as well as add interest at the pedestrian level. The façade of the ground-floor retail will be clad in fiber cement trim to depict a "wood- like" cladding at the retail bays. These "mini-façades" will be integrated with aluminum storefronts to create individuality for retail tenants along the base of the building. Entrances to the retail spaces are located less than 50 feet apart. The primary residential entrance is accessible from the corner of 19<sup>th</sup> Street and C Street, with a secondary residential entrance located at the corner of 20<sup>th</sup> Street and Massachusetts Avenue.
47. On Parcel G-1, the design of the street-facing façade along 19<sup>th</sup> Street is also organized to articulate a clear base, middle, and top. The overall building massing has been designed to represent a streetscape that has developed naturally over time. The building massing is broken down to depict larger buildings at the corners with small scale infill structures in between. Along 19<sup>th</sup> Street at the retail plaza, the space between the large corner façades at each end of the block is completed by four individual façades each with unique retail storefronts below. These grade-level retail façades, in conjunction with the strong cornice elements found on both of the corners, serve to create a strong identifiable base for the building. The middle and top sections of this façade are articulated with double-height windows, alternating brick patterns and colors, and a strong projecting cornice element at the top of the building. The façade along C Street continues the same theme, with a large building façade wrapping the corner at 19<sup>th</sup> Street and C Streets. The massing also depicts five adjacent row dwellings. The design of the building façade along Massachusetts Avenue also incorporates a large building façade wrapping the corner at 19<sup>th</sup> Street. This is followed by a massing that depicts a series of row dwellings along the block. The streetscape is punctuated by a seven story large building façade at the corner

of 20<sup>th</sup> Street. The windows on Parcel G-1 cover 24% of the residential street-facing façade above the ground-floor level at C Street, 33% at 19<sup>th</sup> Street, and 34% at Massachusetts Avenue.

48. Materials used on all street-facing façades for both buildings include brick, cast stone and composite metal panel and fiber cement trim. The security grilles on both buildings will have a minimum of 70% transparency.
49. All retail entrances on Parcel F-1 are accessible from the 19<sup>th</sup> Street public plaza. The retail entrances on Parcel G-1 are accessible from the 19<sup>th</sup> Street public plaza and Massachusetts Avenue. Plaza spaces designed for the Project will provide outdoor amenity opportunities to ground-floor tenants within the public realm. The area between buildings and the bio-retention planters will be outdoor rooms that relate directly to the commercial spaces and will be furnished with movable tables and chairs along with umbrellas and flower pots. These elements will provide intimate areas for dining and public space activation while still providing 10-foot-wide clear circulation routes past them and clear of all doors. (24 DCMR §§ 210.1, 312.2, and 312.3.) Benches will be located between the planters to provide additional seating opportunities outside of the dining seating options. Trash receptacles will be provided for public use at strategic moments and away from dining/seating areas. (24 DCMR §§ 314.9 and 314.10.). Bike racks will be located near entrances per DDOT standards.

#### Design Requirements for Buildings Located on Primary Streets (11 DCMR § 2814)

50. Since the building on Parcel G-1 is located on Massachusetts Avenue, which is designated as a primary street, pursuant to § 2814.1, the following design requirements apply:
  - Notwithstanding §§ 2813.2 and 2813.3, the fronts of buildings located at street intersections shall be constructed to the property lines abutting each intersecting street, without any setback, for a minimum of 50 feet from the intersection, along each street frontage; (11 DMCR § 2814.2.)
  - The corner of the building at the intersection of two primary streets or a primary and secondary street shall incorporate articulation such, as but not limited to, being angled, curved, or chamfered to emphasize the corner; (11 DMCR § 2814.3.)
  - The distance from the corner shall not exceed 20 feet, measured from the corner of the lot to the end of the angled or curved wall segment; (11 DMCR § 2814.4.)
  - Entrances into a building shall be no more than 50 feet apart and recessed no more than six-feet-deep or ten-feet-wide; (11 DMCR § 2814.5.)

- Buildings shall incorporate vertical elements in the street-facing façade to create a series of storefront-type bays where preferred uses are present; (11 DMCR § 2814.6.)
- Residential buildings shall have at least one primary entrance directly accessible from the public sidewalk; and (11 DMCR § 2814.7.)
- Instead of the windows required by § 2812.1(d), on primary streets, artwork and displays relating to activities occurring within the building shall be permitted as a special exception if approved by the Commission pursuant to § 3104, provided the applicant demonstrates that:
  - (a) The building has more than 50% of its ground-level space in storage, parking, or loading areas, or in uses which by their nature are not conducive to windows (such as theaters); and
  - (b) The artwork or displays are consistent with the objective of providing a pleasant, rich, and diverse pedestrian experience.

(11 DMCR § 2814.8.)

51. The building on Parcel G-1 complies with this requirement. The front of the building at the corner of Massachusetts Avenue and 19<sup>th</sup> Street will be constructed to the property line. The front of the building at the intersection of 19<sup>th</sup> and C Street is set back nine feet to accommodate the electric utility vaults within Property. At the corner of Massachusetts Avenue and 19<sup>th</sup> Street the building will be constructed to the property line, emphasizing the non-parallel intersection of these two streets. The façade is articulated with a strong cornice element that wraps the corner at the base and top of the building. To further emphasize this important corner, a large circular paving pattern and fountain have been created to mark this important edge as a public gathering space. All building entrances are less than 50 feet apart, recessed three feet, and are between six and eight feet wide.

### **Special Exception Relief for Garage Entrance Locations**

52. Subsection 2815.9 of the Zoning Regulations states that exceptions from the prohibitions and limitations of § 2815 (except those that pertain to use) shall be permitted if approved by the Commission pursuant to § 3104 of the Zoning Regulations. The Applicant must demonstrate that: (a) there is no practical alternative means of serving the parking, loading, or drop-off needs of the building to be served by the proposed driveway or garage entrance; (b) the driveway or garage entrance will not impede the flow of pedestrian traffic; and (c) the driveway or garage entrance is not inconsistent with the DDOT landscape plans for the public rights of way in the Hill East Waterfront area, to the extent that such plans exist at the time of the special exception application.



53. The garage entrances providing access to parking and loading facilities for each building are located off of private driveways that are accessible from C Street, which is a Secondary Street. Subsection 2815.6 of the Zoning Regulations states that no driveway or garage entrance providing access to parking or loading areas shall be permitted from a Primary or Secondary Street.
54. The Property is surrounded on all sides by either Primary or Secondary Street; therefore, any driveway leading to the project must be from a Primary or Secondary Street. The private driveways will not impede the flow of pedestrian traffic since they are located off C Street at the rear of the buildings and there is ample public sidewalk provided on C Street. The Project will improve access to the Hill East District, generally; is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps; and will not adversely affect the use of neighboring property.

### **Variance Relief**

55. Subsection 2801.3 of the Zoning Regulations states that the Commission may hear and decide any additional requests for variance relief needed for the Property. Such requests shall be advertised, heard, and decided together with the application for review and approval. Pursuant to 11 DCMR § 2801.3, the Applicant requests the following variances: (a) an area variance from the maximum height requirements of 11 DCMR § 2808.1; (b) an area variance from the parking requirements of 11 DCMR §§ 2815.1, 2815.2, and 2101.1; (c) an area variance from the loading requirements of 11 DCMR §§ 2815.3, 2815.4, and 2201.1; (d) an area variance from the percentage and grouping of compact space requirements of 11 DCMR §§ 2115.2 and 2115.4; and (e) a variance from the Inclusionary Zoning requirements of 11 DCMR § 2807.1.
56. The test for variance relief is three-part: (1) demonstration that a particular piece of property is affected by some exceptional situation or condition; (2) such that, without the requested variance relief, the strict application of the Zoning Regulations would result in some practical difficulty upon the property owner; and (3) that the relief requested can be granted without substantial detriment to the public good or substantial impairment of the zone plan. The Commission finds that variance relief is appropriate in this application.

### **Variance from Height Requirements**

57. The Applicant requests an area variance from § 2808.1 of the Zoning Regulations, which permits a maximum building height of 50 feet in the HE-1 Zone District. The Applicant proposes a building height of 52 feet for the building on Parcel F-1, and 53 feet for the portion of the building on Parcel G-1 in the HE-1 Zone District. The additional height is needed to achieve a minimum floor-to-ceiling height of 14 feet for the ground-floor retail uses as required under § 2812.1(c) of the Zoning Regulations. The subject property has an eight-foot difference in the topography as it descends between the western and eastern portion of the property, which is an exceptional situation. This exceptional situation presents a practical difficulty to the Applicant as the change in topography affects the floor plate of the ground-floor use which is required to have a height of 14 feet floor-to

ceiling-height as well as providing direct views into the building for a length of 20 feet requiring the retail use to be on an even floor plate without any internal steps to account for the change in topography. In addition, strict adherence to the requirement would result in the residential units having a floor to ceiling height of less than nine feet.

#### Variance from Parking Requirements

58. The Applicant requests an area variance from §§ 2815.1, 2815.2, and 2101.1 of the Zoning Regulations. For Parcel F-1, the required number of total parking spaces is 60. For Parcel G-1, the required number of total parking spaces is 143. The Applicant proposes only 45 total parking spaces for the building on Parcel F-1 and 111 total parking spaces for the building on Parcel G-1. To accommodate the required spaces would require additional grading and/or a second level resulting in far more spaces than required and would run counter to encouraging the use of Metro rail, bus, and bicycles. The reduction in parking spaces along with the proximity to the Metro Station and the Transportation Demand Management (“TDM”) measures proposed should mitigate any adverse impacts.
59. The Project is located adjacent to the Stadium Armory Metro Station and near numerous bus routes along 19<sup>th</sup> Street. The Project also includes locations outside each building to accommodate BikeShare programs, which provide another alternate form of transportation.

#### Variance from Compact Parking Spaces Requirements

60. The Applicant requests an area variance from §§ 2115.2 and 2115.4 of the Zoning Regulations. For Parcel F-1, 20 compact parking spaces are provided where a maximum of 18 is permitted and the compact parking spaces are not located in continuous groups of at least 5 spaces with access from the same drive aisle. For Parcel G-1, compact parking spaces are not located in continuous groups of at least five spaces with access from the same drive aisle. The column spacing proposed for the building above, as well as the accommodation of the elevator core, stairways, trash rooms, walkways, and other building functions, would create an exceptional condition in the garage where only compact spaces could fit. Granting relief would not impact the public good and would result in a more efficient use of the garage space.

#### Variance from Loading Requirements

61. The Applicant requests an area variance from §§ 2815.3, 2815.4, and 2201.1 of the Zoning Regulations. For Parcel F-1, the Applicant proposes to have one 30-foot loading berth, one 100-square-foot loading platform, and one 20-foot service/delivery space. For Parcel G-1, the Applicant proposes to have one 30-foot loading berth, one 100-square-foot loading platform, and one 20-foot service/delivery space. Access to the loading docks can only be achieved via a private driveway leading to each building, which is not wide enough to accommodate large tractor trailers.

62. Both loading facilities would serve the residential and retail uses in each building. Currently, there are no alleys to the rear of these lots and the Applicant is providing a private driveway to access the buildings. The proposed driveway would be 20 feet wide, which would make it difficult to accommodate a tractor trailer due to insufficient width. Therefore, there is no need to provide a 55-foot berth which cannot be accessed. To minimize any negative impacts, the use of the loading docks would be monitored by a loading dock manager who would monitor and schedule move-ins and move-outs and if necessary coordinate with DDOT if larger trucks are scheduled to visit the site.

#### Variance from the Inclusionary Zoning Requirements

63. The Applicant seeks a variance from the inclusionary zoning requirements in Chapter 26 of the Zoning Regulations. The Property is located within the Anacostia Waterfront Development Zone, and must comply with the affordable housing requirements contained in the AWI Act. The AWI Act requires that at least 30% of the total housing units developed must be affordable with 15% reserved for households earning up to or at 30% of the AMI and 15% reserved for households earning up to or at 60% of the AMI.

#### Office of Planning Report

64. By report dated March 28, 2016, OP recommended approval of the application. (Ex. 22.) OP noted that the application successfully addresses all of the evaluation criteria of the HE Zone District and recommended approval of the Project if its concerns regarding EIFs were met or if additional, unrequested design relief was granted in order to permit EIFs.
65. As shown in the Final Architectural Drawings, the Applicant eliminated its proposed use of EIFs.

#### DDOT Report

66. By report dated March 28, 2016, DDOT provided its analysis regarding the parking, loading trip generation, and vehicle turning impacts of the project on the District's transportation network. (Ex. 21.) DDOT stated that it has no objection to the application with certain conditions, which are incorporated as TDM measures 7d-f., *infra*. (Ex. 21.) DDOT noted that the Applicant provided a loading management plan to mitigate the potential impacts caused by the loading relief requested.

### CONCLUSIONS OF LAW

1. The application was submitted pursuant to 11 DCMR § 2801.1 for review and approval by the Commission, pursuant to 11 DCMR § 2815.9 for special exception relief from the parking access requirements of § 2815.6, and pursuant to § 2801.3 for: (a) an area variance from the maximum height requirements of 11 DCMR § 2808.1; (b) an area variance from the parking requirements of 11 DCMR §§ 2815.1, 2815.2, and 2101.1; (c) an area variance from the loading requirements of 11 DCMR §§ 2815.3, 2815.4, and 2201.1; (d) a variance from the percentage and grouping of compact space requirements

of 11 DCMR §§ 2115.2 and 2115.4; and (e) a variance from the Inclusionary Zoning requirements of 11 DCMR § 2807.1. The Commission concludes that the Applicant has met its burden of proof.

2. The Commission provided proper and timely notice of the public hearing on the application by publication in the *D.C. Register* and by mail to ANC 7F, OP, and owners of property within 200 feet of the Property.
3. Pursuant to 11 DCMR § 2801.1, the Commission required the Applicant to comply with design guidelines set forth in 11 DCMR §§ 2812 through 2814 and with the general purposes of the HE Zone District as stated in 11 DCMR § 2800.7. The Commission concludes that the Applicant has met its burden.
4. The proposed development is within the applicable height, bulk, and density standards for the HE Zone District and will not tend to affect adversely the use of neighboring properties. The overall Project is also in harmony with the general intent and purpose of the Zoning Regulations and Map.
5. No person or parties appeared at the public hearing in opposition to the application.
6. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and concerns raised in the written report of the affected ANC. The affected ANC in this case is ANC 7F. The Commission carefully considered ANC 7F's recommendation for approval and concurs in its recommendation, and considered the issues and concerns stated in its reports.
7. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)), to give great weight to OP recommendations. The Commission carefully considered the OP report and, as explained in this decision, finds its recommendation to grant the application persuasive.
8. Based upon the record before the Commission, including witness testimony, letters in support and opposition, the reports submitted by OP, DDOT, ANCs 7F and 6B, and the Applicant's submissions, the Commission concludes that the Applicant has met the burden of satisfying the applicable standards under 11 DCMR §§ 2812 through 2814 and 11 DCMR § 2800.7 of the Zoning Regulations and for variance and special exception relief from 11 DCMR §§ 3103 and 3104.

### **DECISION**

In consideration of the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application consistent with this Order. The term "Applicant" shall mean the person or entity then holding title to the Property. If there is more than one owner, the obligations under this Order shall be joint and several. If a

person or entity no longer holds title to the Property, that party shall have no further obligations under this Order; however, that party remains liable for any violation of any condition that occurred while an owner. This approval is subject to the following guidelines, standards, and conditions:

1. The approval of the proposed development shall apply to Lots 802, 803, and 804 in Square 1112E.
2. The Project shall be built in accordance with the consolidated set of architectural drawings submitted to the Commission on May 12, 2016, and dated May 13, 2016, and the guidelines, conditions, and standards below.
3. Parcel F-1 shall be developed with a with a four-story building containing approximately 13,400 square feet of retail and 91 residential units. The building will have a maximum height of 52 feet; approximately 106,460 square feet of gross floor area; and a density of 1.86 FAR. The open plaza area along 19<sup>th</sup> Street shall be maintained by the Applicant **for the life of the project.**
4. Parcel G-1 shall be developed with a with a four-story building containing approximately 13,800 square feet of retail and 258 residential units. The building will have a maximum height of 53 feet on the portion of the parcel in the HE-1 Zone District and 69 feet on the portion of the parcel in the HE-2 Zone District; approximately 268,808 square feet of gross floor area; and a density of 3.27 FAR. The open plaza area along 19<sup>th</sup> Street shall be maintained by the Applicant **for the life of the project.** The Applicant shall have the flexibility of design to choose between the façades presented in its revised drawings (Ex. 30B, Sheet 51) and its post-hearing plans (Ex. 37A6, Sheet 51; 37A7, Sheet 64) for the Parcel G-1 C Street elevations.
5. In accordance with the AWI Act, for the building on Parcel F-1, the Applicant shall reserve 14 affordable units for households not exceeding 30% AMI and 14 affordable units for households not exceeding 60% AMI. These dedicated units shall be reserved at said affordability levels for 50 years. Upon the expiration of the 50-year period, the building on Parcel F-1 shall provide Inclusionary Zoning units as required currently by Chapter 26 of the Zoning Regulations **for the life of the Project.**
6. In accordance with the AWI Act, for the building on Parcel G-1, the Applicant shall reserve 39 affordable units for households not exceeding 30% AMI and 39 affordable units for households not exceeding 60% AMI. These dedicated units shall be reserved at said affordability levels for 50 years. Upon the expiration of the 50-year period, the building on Parcel G-1 shall provide Inclusionary Zoning units as required currently by Chapter 26 of the Zoning Regulations, **for the life of the Project.**
7. **The Applicant shall implement the following TDM measures for the life of the Project:**
  - a. Designate a transportation coordinator;

- b. Provide information and/or links to the current transportation programs and services such as Capital BikeShare, ride hailing services (e.g., Uber), car sharing services, DDOT's DC Bicycle Map, goDCgo.com, commuter connections, and WMATA;
  - c. Provide 119 secure bicycle spaces in the two buildings;
  - d. Provide a one time, annual Capital Bikeshare or car share membership per unit each time the unit turns over **for a period of three years**;
  - e. Unbundle parking costs from the lease or purchase price of the unit; and
  - f. Dedicate two parking spaces in each garage for car sharing services to use with the right of first refusal.
8. The Project shall achieve LEED-Silver certification.
9. The Applicant shall have flexibility with the design of the Project in the following areas:
- a. To vary the location and design of all interior components, including but not limited to partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not materially change the exterior configuration of the buildings;
  - b. To vary the final selection of exterior materials within the color ranges provided (maintaining or exceeding the same general level of quality) as proposed, based on availability at the time of construction;
  - c. To make refinements to exterior materials, details, and dimensions, including belt courses, sills, bases, cornices, railings, and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit or any other applicable approvals;
  - d. To vary the number of residential units provided so long as the total amount of residential units provided is not diminished or increased by more than 10%;
  - e. To provide signage, including digital signage as authorized by applicable code; and
  - f. To vary the number of parking spaces provided so long as that number equals or exceeds the minimum number of spaces required under the Zoning Regulations.
10. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as



amended, D.C. Official Code § 2-1401.1 et seq. (the "Act"), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identification, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violations will be subject to disciplinary action.

On May 12, 2016, upon the motion of Commissioner Miller, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** the application and **ADOPTED** this Order at its special public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve and adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*, that is on July 1, 2016.

  
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**ANTHONY J. HOOD**  
**CHAIRMAN**  
**ZONING COMMISSION**

  
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**SARA A. BARDIN**  
**DIRECTOR**  
**OFFICE OF ZONING**